USR Metals, Inc. and USR Industries Inc., single employer *and* Paper, Allied-Industrial, Chemical & Energy Workers International Union, AFL–CIO, CLC, and its Local 2–719. Case 6–CA–31100

August 23, 2000

DECISION AND ORDER

BY CHAIRMAN TRUESDALE AND MEMBERS FOX AND LIEBMAN

Upon a charge filed by Local 2-719 on January 24, 2000, and amended charges filed by the International Union and Local 2-719 on February 29, 2000, and June 5, 2000, the General Counsel of the National Labor Relations Board issued a complaint on June 14, 2000 against USR Metals, Inc. and USR Industries, Inc., as a single employer, the Respondent, alleging that it has violated Section 8(a)(1) and (5) of the National Labor Relations Act. Although properly served copies of the charge, amended charges, and the complaint, the Respondent failed to file an answer.

On July 27, 2000 the General Counsel filed a Motion for Summary Judgment with the Board. On July 28, 2000, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letter dated June 30, 2000, notified the Respondent that unless an answer were received by the close of business on the third business day following receipt of the letter, a Motion for Summary Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times Respondent USR Metals, a corporation with an office and place of business in Bloomsburg, Pennsylvania, has been engaged in the manufacture and nonretail sale of dials and lighted signage components. During the 12-month period ending December 31, 1999, Respondent USR Metals, in conducting its business operations, purchased and received at its Bloomsburg, Pennsylvania facility goods valued in excess of $50,000 directly from points outside the Commonwealth of Pennsylvania.

At all material times Respondent USR Industries, a corporation with an office and place of business in Houston, Texas, has been engaged in the manufacture and nonretail sale of dials and lighted signage components. During the 12-month period ending December 31, 1999, Respondent USR Industries, in conducting its business operations, performed services valued in excess of $50,000 within the State of Texas for Respondent USR Metals, an enterprise directly engaged in interstate commerce.

At all material times, Respondent USR Metals and Respondent USR Industries (the Respondent), have been affiliated business enterprises with common officers, ownership, management, and supervision; have formulated and administered a common labor policy; have shared common premises and facilities, have provided services for and made sales to each other; have interchanged personnel with each other; and have held themselves out to the public as single-integrated business enterprises.

Based on the operations described above, we find that the Respondent is a single employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

At all material times through September 1998, Oil Chemical, and Atomic Workers International Union, Local 8-707, AFL–CIO, CLC (Local 8-707), was a labor organization within the meaning of Section 2(5) of the Act. In September 1998, Local 8–707 amalgamated with Oil, Chemical, and Atomic Workers International Union, Local 8–719, AFL–CIO, CLC (Local 8-719). The amalgamated union was designated as Local 8–719 after September 1998. On January 1, 1999, Oil, Chemical, and Atomic Workers International Union, AFL–CIO, CLC merged with United Paperworkers International Union, AFL–CIO, CLC, to form Paper, Allied-Industrial, Chemical & Energy Workers International Union, AFL–CIO, CLC (the International). On January 1, 1999, Local 8–719 was renamed by the merged labor organization as Local 2–719. At all material times, the International and Local 2-719 have been labor organizations within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

The following employees of Respondent USR Metals (the unit), constitute a unit appropriate for purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All production and maintenance employees, including truck drivers, shipping clerks, stockroom clerks, and all other hourly employees, including leadmen and/or group leaders; excluding production layout men, planners, estimators, office clerical employees, foremen, professional employees, apprentice trainees who are in training for work which might be deemed to be of a professional or technical nature, watchmen, and supervisory employees as defined in the Act.

For many years and at all material times through September 1998, Local 8-707 was the designated exclusive collective-bargaining representative of the unit, and Local 8-707 was recognized as such by Respondent USR Metals. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective from March 1, 1998 to April 21, 2001.

From September 1998 through January 1, 1999, Local 8–719, following the amalgamation described above, was the designated exclusive collective-bargaining representative of the unit, and Local 8-719 was recognized as such representative by the Respondent.

From January 1, 1999, and at all material times, the International and Local 2–719, by virtue of the collective-bargaining agreement referred to above, and its successor relationship to Local 8-707, was the designated exclusive collective-bargaining representative of the unit, and the International and Local 2–719 (the Union), were recognized as such by the Respondent. At all material times, the International has been an agent of Local 2–719 for the purpose of representing the Respondent's unit employees, and Local 2-719 has been an agent of the International for the purpose of representing the Respondent's unit employees. At all times since September 1998, by virtue of Section 9(a) of the Act, the above named unions have been the exclusive collective-bargaining representative of the unit.

About February 11, 2000, by letter, the Union requested that Respondent USR Metals furnish it with information about the record and status of certain payments by Respondent USR Metals to various governmental and private entities.[1] The information requested is necessary for, and relevant to the Union's performance of its duties as the exclusive collective-bargaining representative of the unit.

Since about February 11, 2000, the Respondent has failed and refused to furnish the Union with the information requested.

CONCLUSION OF LAW

By the acts and conduct described above, the Respondent has failed and refused to bargain collectively with the exclusive collective-bargaining representative of its employees, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (5) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has failed and refused to furnish information that is necessary and relevant to the Union's role as the exclusive collective-bargaining representative of its employees constituting a failure and refusal to bargain in good faith, we shall order the Respondent to cease and desist from refusing to bargain collectively and in good faith with the Union, and to furnish the Union with the information requested by letter dated February 11, 2000,

ORDER

The National Labor Relations Board orders that the Respondent, USR Metals, Inc. and USR Industries Inc., Bloomsburg, Pennsylvania and Houston, Texas, respectively, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to furnish information to the Union that is necessary and relevant to its role as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

> All production and maintenance employees, including truck drivers, shipping clerks, stockroom clerks, and all other hourly employees, including leadmen and/or group leaders; excluding production layout men, plan-

[1] The letter asked for: (1) The date and amount of the last payments made to the Internal Revenue Service by the Company to cover Federal income taxes and FICA withheld from the wages of employees represented by the Union; (2) the date and amount of the last payments made to the Internal Revenue Service by the Company to cover the Company's FICA contribution for employees represented by the Union; (3) The date and amount of the last payments made to the Pennsylvania Department of Revenue by the Company to cover state income taxes withheld from the wages of employees represented by the Union; (4) The date and amount of the last payments made to the Pennsylvania Department of Labor & Industry by the Company to cover its obligations with regard to unemployment compensation; (5) The date and amount of the last payment made by the Company to the insurance carriers providing health insurance for the employees represented by the Union; (6) The date of the last payment made by the Company to its workers compensation carrier; (7) The date and amount of payment made by the Company to any defined benefit and/or defined contribution plan in which employees are participants; (8) To the extent that the Company has *not* made any payments during the past 12 months to any defined benefit plan in which employees represented by the Union are participants, the actuarial opinion which justifies the Company's failure or decision not to make such contribution; and (9) A copy of the actuarial valuations of the defined benefit plan for the last 5 years, along with the complete 5500 filings, with all attachments for the last 5 years.

ners, estimators, office clerical employees, foremen, professional employees, apprentice trainees who are in training for work which might be deemed to be of a professional or technical nature, watchmen, and supervisory employees as defined in the Act.

(b) Failing and refusing to bargain collectively and in good faith with the Union.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Furnish the Union with the information it requested by letter dated February 11, 2000.

(b) Within 14 days after service by the Region, post at its facilities in Bloomsburg, Pennsylvania and Houston, Texas, copies of the attached notice marked "Appendix".[2] Copies of the notice, on forms provided by the Regional Director for Region 6, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since February 11, 2000.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. August 23, 2000

John C. Truesdale,	Chairman
Sarah M. Fox,	Member
Wilma B. Liebman,	Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES
Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT fail and refuse to furnish information to the Paper, Allied-Industrial, Chemical & Energy Workers International Union, AFL–CIO, CLC, and its Local 2–719 that is necessary and relevant to its role as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

> All production and maintenance employees, including truck drivers, shipping clerks, stockroom clerks, and all other hourly employees, including leadmen and/or group leaders; excluding production layout men, planners, estimators, office clerical employees, foremen, professional employees, apprentice trainees who are in training for work which might be deemed to be of a professional or technical nature, watchmen, and supervisory employees as defined in the Act.

WE WILL NOT fail and refuse to bargain collectively and in good faith with the Union.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL furnish the Union with the information it requested in its letter to us dated February 11, 2000.

USR METALS, INC., AND USR INDUSTRIES, INC.

[2] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."